




Whitman L. Holt
Bankruptcy Judge

Dated: August 20th, 2024

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UNITED STATES BANKRUPTCY COURT

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IN AND FOR THE EASTERN DISTRICT OF WASHINGTON

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In re:

No. ~~24~~ 24-00850-WLH11

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**UNDERGROUND CREATIVE, LLC fdba
UNDERGROUND CREATIVE, INC.,**

Chapter 11

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Debtor.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW REGARDING
CONFIRMATION OF DEBTOR'S
FIRST AMENDED CHAPTER 11
SUBCHAPTER V PLAN OF
REORGANIZATION**

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THIS MATTER came on for hearing on August 19, 2024 on the request of Debtor for confirmation of Debtor's First Amended Chapter 11 Subchapter V Plan of Reorganization filed on August 5, 2024 [ECF No. 102] (the "Plan"). Southwell & O'Rourke, P.S. appeared ~~ed~~ for Debtor. The court having reviewed the Plan and the Declaration of Jerrod Lindblom [ECF No. 107], and having heard the statements of counsel, makes the following FINDINGS OF FACT AND CONCLUSIONS OF LAW,

Findings of Fact and Conclusions of Law -1

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1 1. Debtor filed this Chapter 11 Subchapter V proceeding on May 28, 2024
2 [ECF No. 1].

3 2. Debtor filed the Plan on August 5, 2024 [ECF No. 102]. The Plan contains
4 a brief history of the business operations of the Debtor, a liquidation analysis, and
5 projections with respect to the ability of the Debtor to make Plan payments. The Plan
6 provides for the submission of future income as is necessary for the execution of the
7 Plan. As such, the Plan complies with 11 U.S.C. § 1190.

8 3. Debtor gave proper notice of the original plan filing and the hearing on
9 confirmation of the Plan to creditors and parties in interest as required by FRBP 2002,
10 LBR 2002-1, and LBR 3018-1, as well as other applicable provisions of the Bankruptcy
11 Code and the Federal Rules of Bankruptcy Procedure by properly serving the original
12 Plan, List of Classifying Claims and Interest, Ballot, and notice. Proof of service of such
13 was filed with the court on July 1, 2024 [ECF No. 73]~~14~~.

15 4. The hearing on confirmation after notice to creditors was held by
16 telephone conference on August 19, 2024.

17 5. Certain classes of claims are impaired under the ~~p~~Plan.

18 6. Debtor filed a Ballot Summary on August 5, 2024 [ECF No. 103] (the
19 “Ballot Summary”). The Ballot Summary indicates that all Classes who cast a ballot~~5~~
20 voted in favor of the Plan. There were no Classes that voted against the Plan.

21 7. No ballots other than those identified in the Ballot Summary have been
22 received by Debtor except Class 6 voted after the voting deadline.

1 8. Any payment made or to be made by ~~the~~ Debtor for services or for costs
2 and expenses in or in connection with the case, or in connection with the Plan and
3 incident to the case, has been approved by, or is subject to the approval of, the court
4 as reasonable. Any and all payments for professional services, including authorization
5 required by 11 U.S.C. §§ 327 and 330, shall remain subject to bankruptcy court approval
6 notwithstanding confirmation of the Plan.

7 9. Debtor shall continue the operation of Debtor's Business, defined in Art.
8 9.1 of Plan, after confirmation of the Plan. The net income from Debtor's business
9 operations shall be used by Debtor to pay creditors as provided by the Plan.

10 10. The Debtor's Plan contains a Liquidation Analysis, which in a liquidation
11 scenario, projects that all creditors ~~shall~~would not be paid in full. As such, the creditors
12 who are impaired by the plan, and who did not vote for the plan, will receive not less
13 than the amount they would receive in a liquidation, as required by 11 U.S.C. §
14 1129(a)(7).

15 11. No government regulatory commission or agency is required to approve
16 the Plan or terms of the Plan.

17 12. Debtor's Plan satisfies the requirements of 11 U.S.C. § 1129(a)(7) in that
18 each holder of a claim or interest has accepted the Plan or will receive or retain under
19 the Plan property of a value, as of the effective date of the Plan, that is not less than the
20 amount that such holder would receive or retain if Debtor was liquidated under Chapter
21 7 of the Bankruptcy Code on such date.

22 13. No 11 U.S.C. § 1111(b) elections have been made by any secured
23 creditor.

24 14. With respect to the class of claims that did not vote for the Plan, the Plan
25 does not discriminate unfairly, and is fair and equitable, with respect to such class of

1 claims as required by 11 U.S.C. §§ 1129(b)(1) and 1191(a). As stated above, the Plan
2 calls for the Debtor's payment of its disposable income to creditors over a period of 3
3 years. Furthermore, ~~the~~ Debtor has provided a Plan Budget, Monthly Operating Reports
4 and the Declaration of Debtor's representative Jerrod Lindblom, which demonstrate ~~the~~
5 Debtor's ability to make the Plan payments.

6 15. Class 1 claims are unimpaired under the Plan and are not entitled to vote.
7 Classes numbered 3, 7, and 10 represent insider claims and are not voting classes
8 under the Plan.

9 16. Administrative priority claims described by 11 U.S.C. § 503(b) and 11
10 U.S.C. § 507(Aa)(2) are provided for as required by 11 U.S.C. § 1129(a)(9).

11 17. The Plan has been accepted in writing by at least one non-insider class of
12 impaired creditors as required by 11 U.S.C. § 1129(a)(10). The provisions of Chapter
13 11, Title 11 of the United States Code have been complied with, and the Plan complies
14 with all provisions of Title 11 of the United States Code as well as other applicable law.

15 18. Confirmation of the Plan is not likely to be followed by liquidation, or the
16 need for further financial reorganization, of Debtor.

17 19. This was a voluntary Chapter 11 filing by ~~the~~ Debtor. As such, no fees are
18 due to any involuntary creditors.

19 20. ~~The~~ Debtor does not owe child support or domestic support obligations.

20 21. ~~The~~ Debtor has no allowable unpaid wage claims nor claims for
21 commissions that were directly incurred by Debtor which have not been waived.

22 22. ~~The~~ Debtor does not owe claims for non-payment to any employee benefit
23 plan.

24 23. ~~The~~ Debtor does not operate a grain storage facility.

25 24. ~~The~~ Debtor does not owe a debt to fishermen.

25. There are no claims made by any creditors for pre-petition deposits for purchase or lease of products for any creditor's personal family or household use.

26. ~~The~~ Debtor does not **currently** owe the bankruptcy court for any fees.

27. Debtor is not paying retiree benefits; therefore, no retiree benefits will be affected by the Plan.

28. Debtor's Plan should be confirmed. The provisions of Chapter 11 have been complied with, and the Plan has been proposed in good faith and not by any means forbidden by law.

29. The requirements for confirmation of the Plan imposed by the Bankruptcy Code, Federal Rules of Bankruptcy Procedure and other applicable law, including the requirements of 11 U.S.C. § 1129, have been met.

30. The effective date of the Plan will be the first business day following the date on which the confirmation **order** becomes a final non-appealable order. Debtor is authorized **and directed** to begin consummation of the Plan on the effective date.

~~31. The Plan is confirmed.~~

///END OF ORDER///

PRESENTED BY:

SOUTHWELL & O'ROURKE, P.S.

BY:/s/ Dan O'Rourke

DAN O'ROURKE
DAN O'ROURKE, WSBA #4911
Attorney for Debtors

* Changes made by court

Findings of Fact and Conclusions of Law -5

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